



INSIGHTS

108th Congress

October 12, 2004

*Also available on the FEMP Home Page at
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Weekly Summary

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INSIGHTS is prepared expressly for the Department of Energy's Office of Federal Energy Management Programs (FEMP). The purpose of **INSIGHTS** is to provide FEMP management staff with timely information on legislative activities relevant to the program. **INSIGHTS** is prepared for FEMP by Energetics, Incorporated, (202) 479-2748.

WEEKLY SUMMARY

CONGRESSIONAL SCHEDULE

Congress will not be in session until after the November 2 elections; no schedule has been announced for their return to resume work on pending bills.

House

No activities of interest are planned.

Senate

This week, the Senate plans the following activities of interest:

- Votes on FY 2005 Appropriations for Homeland Security and Military Construction

FY 2005 BUDGET RESOLUTION AND FY 2005 APPROPRIATIONS

On September 29 the House and Senate approved *H.J. Res. 107 – Making Continuing Appropriations for Fiscal Year 2005*. The bill provides that existing programs under the jurisdiction of the 12 annual appropriations bills that have yet to be enacted into law can continue to operate at the FY 2004 funding level until 1) enacted into law or 2) November 20, 2004. To date, only the FY 2005 Appropriations for Defense has been signed in to law (*P.L. 108-287*).

House

The House has passed 12 of the 13 annual appropriations bills; pending House consideration and approval is *H.R. 5041 – FY 2005 Appropriations for Veterans' Affairs, Housing and Urban Development, and Independent Agencies* (including the Environmental Protection Agency). No schedule has been announced for floor consideration of *H.R. 5041*.

Senate

To date, the Senate has passed four of the 13 annual appropriations bills. Three of the bills of interest to *INSIGHTS* readers include:

- Defense (*P.L. 108-287*) – Signed by the President on August 5.
- Homeland Security (*S. 2537*) – Senate approved the House-Senate Conference Report on October 11; the bill will now be prepared for the President's signature.
- Military Construction (*S. 2674*) – Senate approved the House-Senate Conference Report on October 11; the bill will now be prepared for the President's signature.

No schedule has been announced for mark up at the subcommittee and full committee level and/or Senate consideration of the remaining 10 bills. (Refer to: [Status of All FY 2005 Appropriations Bills](#)).

COMPREHENSIVE ENERGY LEGISLATION

Energy-Related Tax Incentives No further action has been taken in the House or Senate on comprehensive energy legislation.

ENERGY SAVINGS PERFORMANCE CONTRACTING (ESPC)

On October 8, the House-Senate Conference Committee for the *FY 2005 Defense Authorization bill (H. 4200)* completed work on the conference report, which was approved separately by the House and Senate over the weekend. The bill is now being prepared for the President's signature and he is expected to sign the bill into law. **H.R. 4200 extends from 2003 to 2006, authority for Federal agencies to use ESPC contracts to finance Federal energy management projects.** Section 1090 is summarized below.

Defines the term "energy savings" to mean -

A reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of –

- (A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;
- (B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or
- (C) the increased efficient use of existing water sources in either interior or exterior applications.

Defines "energy savings contract" and "energy savings performance contract" to mean –

A contract that provides for the performance of services for the design, acquisition, installation, testing, and where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building, be in compliance with the prospectus requirement and procedures of section 3307 of title 40, United States Code.

Defines energy or water conservation measure to mean –

- (A) an energy conservation measure, as defined in section 551; or
- (B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of waste water or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.

Furthermore, the bill directs the Secretary of Energy to complete a review of the ESPC program within 180 days of enactment of the Act to:

- Identify statutory, regulatory, and administrative obstacles preventing Federal agencies from fully utilizing the program.
- Use the review to identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, in including identification of additional qualified contractors, and energy efficiency services covered.
- Report findings to Congress.
- Implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

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COMMITTEE ACTIVITY

HOUSE

No activity of interest to report.

SENATE

No activity of interest to report.

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STATUS OF FY 2005 APPROPRIATIONS BILLS

- Red text highlights developments since the last issue of *INSIGHTS*.

(In Billions)

HOUSE

SENATE

Jurisdiction/ FY 2004 Budget Request (In Billions)	302(b) Discretionary Allocations/ Approved Funding Level (In Billions)	Bill No.	Full Cmte. Mark Up	Floor Vote	Vote on Conf Rpt.	302(b) Discretionary Allocations/ Approved Funding Level (In Billions)	Bill No	Full Cmte. Mark Up	Floor Vote	Vote on Conf. Rpt.
Agriculture \$16.569	\$16.78 \$16.77	H.R. 4766	6/23	7/13		TBD \$16.77	S. 2803	9/14		
Commerce \$39.553	\$39.78 \$39.8	H.R. 4754	6/23	7/8		TBD \$39.7	S. 2809	9/15		
Defense \$392.585 P.L. 108-287 \$416.2	\$392.14 \$416.9	H.R. 4613	6/16	6/22	7/22	TBD \$416.2	S. 2559	6/22	6/24	7/22
Energy and Water Development \$27.938	\$27.99 \$28.0	H.R. 4614	6/16	6/25		TBD				
Homeland Security \$31.104	\$32 \$32	H.R. 4567	6/9	6/18	10/9	TBD \$32	S. 2537	6/17	9/14	10/11
Interior \$19.982	\$19.73 \$19.5	H.R. 4568	6/9	6/17		TBD \$20.256	S. 2804	9/14		
Labor/HHS \$142.050	\$142.05 \$142.324	H.R. 5006	7/14	9/9		TBD \$142.317	S. 2810	9/15		
Military Construction \$9.553	\$9.553 \$10.003	H.R. 4837	7/9	7/22	10/9	TBD \$10.003	S. 2674	7/15	9/20	10/11
Transportation and Treasury \$25.714	\$25.714	H.R. 5025	9/8	9/22		TBD \$44.052	S. 2806	9/14		
VA/HUD \$92.129	\$92.129 \$92.9	H.R. 5041	7/22			TBD \$92.930	S. 2825	9/21		

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ADMINISTRATION INITIATIVES

No new actions or announcements of interest to report.

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CONGRESSIONAL SCHEDULE

HOUSE – COMMITTEE ON APPROPRIATIONS

No activities of interest have been scheduled.

HOUSE – AUTHORIZATIONS/OVERSIGHT

No activities of interest have been scheduled.

SENATE – COMMITTEE ON APPROPRIATIONS

No activities of interest have been scheduled.

SENATE – AUTHORIZATIONS/OVERSIGHT

No activities of interest have been scheduled.

CONFERENCE COMMITTEE NEGOTIATIONS AND FLOOR VOTES

No activities of interest have been scheduled.

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